

Docket No.: 45112-099



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Steven M. BESSETTE

Serial No.: 09/633,621

Filed: August 07, 2000

For: PESTICIDAL COMPOSITIONS CONTAINING PLANT ESSENTIAL OILS AGAINST BEETLES

Group Art Unit: 1616

Examiner: A. Pryor

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RESPONSE RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, DC 20231

Dear Sir:

In response to the non-final Office Action dated October 10, 2002, setting forth a restriction requirement, Applicant hereby elects, with traverse, Group I (claims 8, 9, 24-35) for prosecution on the merits. In response to the Election of Species Requirement, Applicant hereby elects for prosecution on the merits the plant essential oil species of benzyl alcohol. Per the Examiner's request, Applicant respectfully submits that by virtue of the above-election claims 8, 9, 24-27, 29-33 and 35 are readable on the elected species.

Applicant respectfully submits that a restriction requirement between patentably distinct inventions is proper only when there is a serious burden on the Patent Office to examine all of the claims in a single application even when it appears that appropriate reasons exist for a restriction requirement. M.P.E.P. § 803. To avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office, Applicant respectfully requests that the above policy be applied in the present application because the subject matter of the pending claims is sufficiently related.

For instance, Group I is directed to methods for controlling beetles by applying plant essential oil compounds. Group II is directed to methods for controlling maize weevils by applying plant essential oil compounds. Applicant respectfully submits that the search for Group

I would necessarily overlap with Group II because maize weevils classified are beetles. In particular, beetles and maize weevils are members of the taxonomic order Coleoptera, weevils being commonly referred to as beetles with snouts.

Similarly, Group III is directed to methods for controlling beetles' larvae by applying plant essential oil compounds. Applicant respectfully submits that the search for the inventions of Group I, which relate to control of adult beetles, would necessarily overlap with the inventions of Group III, which relate to control of immature beetles, i.e., beetle larvae.

Thus, a thorough search for the subject matter of any one claim of elected Group I would necessarily overlap with a search for the subject matter of each of the remaining claims in Groups II and III such that a search and examination of the entire application can be made without serious burden.

Further, as acknowledged by the Examiner in a telephonic interview, Applicant respectfully submits that if claims reciting the elected species are found to be allowable, then Applicant would be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claims containing all of the disclosed species should be allowable as well. Therefore, Applicant respectfully requests reconsideration and withdrawal of the restriction and election of species requirements.

Please grant any extension of time necessary for entry of this communication.

Please charge any deficient fees, or credit any overpayment of fees, to Deposit Account No. 500417. A duplicate copy of this communication is attached.

Respectfully submitted,

Date: January 10, 2003

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